



STATE OF CONNECTICUT

)

CONSENT ORDER 2507

)

vs.

)

)

ALLYNDALE CORPORATION

)

### CONSENT ORDER

- A. With the agreement of Allyndale Corporation ("Respondent"), the Commissioner of Energy and Environmental Protection ("Commissioner") finds the following:
1. The Respondent engages in the business of processing nonmetallic minerals at 40 Allyndale Road in East Canaan, Connecticut ("facility").
  2. The Respondent stores and transports limestone products at the facility and offsite. The Respondent owns and operates various equipment and vehicles at the facility, including but not limited to rock crushers, screeners, and trucks.
  3. On June 15, 1990, the Respondent was issued Operating Permit No. 134-0005 ("Permit") for the Kue- Ken secondary crusher.
  4. Pursuant to page 2 of the Permit, the Respondent was required either to use an ultra-wet dust suppression system with a minimum control efficiency of 90% or install a bag house with an overall control efficiency of 94%.
  5. Pursuant to Section 22a-174-18(c)(1) of the Regulations of Connecticut State Agencies ("RCSA"), no person shall cause or allow any materials to be handled, transported, or stored; or a building, its appurtenances, or a road to be used, constructed, altered, repaired or demolished without taking reasonable precautions, as defined in RCSA §§ 22a-174-18(c)(1) (A) to (D), to prevent particulate matter from becoming airborne.
  6. Pursuant to RCSA §22a-174-18(c) (2) (A), no person shall cause or allow the emission of visible particulate matter beyond the legal boundary of the property on which such emission occurs that remains near ground level beyond such property boundary. Additionally, no person shall emit particulate matter into the ambient air in such a manner as to cause a nuisance in accordance with RCSA §22a-174-18(c) (3).

7. On June 20, 2016, an investigation was performed at the facility by a representative of the Department of Energy and Environmental Protection ("Department") in response to dust complaints. Based on the June 20, 2016 inspection, the Department determined that the baghouse serving the secondary crusher was not in operation. The Department also observed particulate matter becoming airborne and crossing the facility's property line. Whereas the Respondent failed to have a working baghouse to control particulate matter, the Department determined that the Respondent violated the Permit.
8. Whereas the Respondent allowed particulate matter to become airborne and cross the facility's property line, the Department determined that the facility violated RCSA §§22a-174-18 (c)(1)(C), (c)(2)(A), and (c)(3) and issued Notice of Violation ("NOV") 17720 to the Respondent on September 2, 2016.
9. On September 22, 2016, the Respondent submitted a compliance statement in response to NOV 17720 indicating that they repaired the baghouse and that they would install an additional baghouse to capture and control particulate matter from the secondary crusher.
10. On May 4, 2017, the Department re-inspected the facility and determined that the Respondent repaired the existing baghouse, but did not install the second baghouse referenced in paragraph A.9. of this Consent Order.
11. During the May 4, 2017, the Department observed particulate matter becoming airborne and the particulate matter crossed the facility's property line. Whereas the Respondent failed to prevent particulate matter from traveling beyond the facility's property line, the Department determined that the repairs referenced in paragraph A.9. of this Consent Order were inadequate.
12. Pursuant to 40 CFR §60.670, a facility at fixed sand or gravel plants and crushed stone plants with a capacity, as defined in 40 CFR §60.671 of 25 tons per hour or greater and was constructed, modified, or reconstructed after August 31, 1983, is subject to the requirements of 40 CFR Part 60 Subpart OOO.
13. The Respondent installed the Secondary Crusher after 1983 and the cumulative rated capacity of all initial crushers that are part of the plant are greater than 25 tons per hour.
14. Pursuant to 40 CFR §60.672 and Table to Subpart OOO, the Respondent is required to perform and pass an opacity test and PM emissions test on the Secondary Crusher. Based on the Department's records, Department determined that the Respondent failed to perform the required tests.
15. Whereas the Respondent failed to perform an opacity test and PM emissions test, the Department determined that the Respondent violated 40 CFR Part 60 Subpart OOO.
16. By virtue of the above, the Respondent has violated RCSA Section 22a-174-18(c), the Permit and 40 CFR Part 60 Subpart OOO.
17. On October 1, 2019, the Respondent submitted a Dust Mitigation Plan and a written letter dated September 15, 2019, from RPS Associates of New England, to address the violations referenced in paragraphs A.7., A.8. and A.11. of this Consent Order. The Dust Mitigation Plan proposes to install and operate an additional



- i. The Respondent shall submit the 1st payment, in the amount of \$3,240, within 30 days from the issuance of this Consent Order.
  - ii. The Respondent shall submit the 2nd payment, in the amount of \$3,240, on or before April 1, 2020.
  - iii. The Respondent shall submit the 3rd payment, in the amount of \$3,240, on or before July 1, 2020.
7. Payment of penalties. Payment of penalties under this Consent Order shall be mailed or personally delivered to the Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to Treasurer, State of Connecticut. "The check shall state on its face, "Bureau of Air Management civil penalty, Consent Order No. 2507."
8. Full compliance. Respondent shall not be considered in full compliance with this Consent Order until all actions required by this Consent Order have been completed as approved and to the Commissioner's satisfaction.
9. Approvals. Respondent shall use best efforts to submit to the Commissioner all documents required by this Consent Order in a complete and approvable form. If the Commissioner notifies Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondent shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within 30 days of the Commissioner's notice of deficiencies. In approving any document or other action under this Consent Order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this Consent Order. Nothing in this paragraph shall excuse noncompliance or delay.
10. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or a representative of the Commissioner.
11. Dates. The date of "issuance" of this Consent Order is the date the Consent Order is deposited in the U.S. mail or personally delivered, whichever is earlier. The date of submission to the Commissioner of any document required by this Consent Order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this Consent Order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is deposited in the U.S. mail or is personally delivered, whichever is earlier. Except as otherwise specified in this Consent Order, the word "day" as used in this Consent Order means calendar day. Any document or action which is required by this Consent Order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed by the next day which is not a Saturday, Sunday or Connecticut or federal holiday.
12. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this Consent Order shall be signed by Respondent or, if Respondent is not an individual, by Respondent's chief executive officer or a duly authorized

baghouse including ducts to capture and control PM emissions generated from the process dryer, cage mill and secondary crusher.

- B. With the agreement of the Respondent, the Commissioner, acting under §§22a-6, 22a-171, 22a-174, 22a-177, and 22a-178 of the Connecticut General Statutes orders the Respondent as follows:
1. The Respondent shall comply with the requirements of the Permit and RCSA Section 22a-174-18 of the Regulations.
  2. On or before December 31, 2019, the Respondent shall install and operate the dust controls in accordance with the Dust Mitigation Plan referenced in paragraph A.17. of this Consent Order.
  3. Until the Respondent's corrective actions result in the prevention and abatement of violation of RCSA Section 22a-174-18 of the Regulations to the Commissioner's satisfaction, the Respondent shall submit a written supplemental plan and schedule for the implementation of additional corrective action. The Respondent shall submit the plan and schedule within thirty (30) days of receipt of notice from the Commissioner that additional corrective action is required. The plan and schedule shall be subject to the Commissioner's review and written approval and/or amendment. The Respondent shall complete all additional corrective actions according to the schedule approved by the Commissioner.
  4. Emissions testing and Opacity test. Within sixty (60) days after the completion of the dust controls installation, the Respondent shall submit to the Commissioner for the Commissioner's review and written approval an Intent To Test ("ITT") form and Test Protocol for the Secondary Crusher to demonstrate compliance with 40 CFR part 60 Subpart OOO as well as the Permit. The protocol shall include at least:
    - i. A detailed description of all aspects of facility operations (e.g., type and quantity of raw materials utilized) and of any air pollutant control equipment in use which may affect emissions testing results, and how and when such information will be monitored;
    - ii. A detailed description of each emissions testing methodology to be utilized, provided that all such methodologies shall conform to those approved by the U.S. Environmental Protection Agency and the Commissioner; and
    - iii. A description of each discharge point at which emissions testing is to be conducted.
    - iv. Stack emission testing for PM and opacity testing shall be performed in accordance with the RCSA 22a-174-5, 40 CFR Section 60.675 and the Emission Test Guidelines available on the DEEP website.
  5. Within 30 days after completion of the air emissions test referenced in paragraph B.4. of this Consent Order, the Respondent shall submit approvable results representative of the actual emissions of particulates and the result of opacity test.
  6. Civil Penalty. The Respondent shall pay a penalty of nine thousand seven hundred and twenty dollars (\$9,720) as the total civil penalty to be sought by the Commissioner for the violations identified in paragraphs A.7., A.8. and A.14 of this Consent Order. The Respondent shall submit the penalty amount of \$9,720 in accordance with the following payment schedule:



representative of such officer, as those terms are defined in §22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual(s) responsible for actually preparing such document, and Respondent or Respondent's chief executive officer and each such individual shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."

13. Noncompliance. This Consent Order is a final order of the Commissioner with respect to the matters addressed herein, and is nonappealable and immediately enforceable. Failure to comply with this Consent Order may subject Respondent to an injunction and penalties.
14. False Statements. Any false statement in any information submitted pursuant to this Consent Order may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law.
15. Notice of transfer; liability of Respondent. Until Respondent has fully complied with this Consent Order, Respondent shall notify the Commissioner in writing no later than 15 days after transferring all or any portion of the facility, the operations, the site or the business which is the subject of this Consent Order or after obtaining a new mailing or location address. Respondent's obligations under this Consent Order shall not be affected by the passage of title to any property to any other person or municipality.
16. Commissioner's powers. Except as provided hereinabove with respect to payment of civil penalties, nothing in this Consent Order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present, or future violations of law. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this Consent Order have not successfully corrected all violations, fully characterized the extent or degree of any pollution, or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require Respondent to undertake further investigation or further action to prevent or abate violations or pollution.
17. Respondent's obligations under law. Nothing in this Consent Order shall relieve Respondent of other obligations under applicable federal, state and local law.
18. No assurance by Commissioner. No provision of this Consent Order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondent pursuant to this Consent Order will result in compliance.
19. Access to site. Any representative of the Department of Energy and Environmental Protection may enter the facility without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Consent Order.

20. No effect on rights of other persons. This Consent Order neither creates nor affects any rights of persons or municipalities that are not parties to this Consent Order.
21. Notice to Commissioner of changes. Within 15 days of the date Respondent becomes aware of a change in any information submitted to the Commissioner under this Consent Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Commissioner.
22. Notification of noncompliance. In the event that Respondent becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this Consent Order or of any document required hereunder, Respondent shall immediately notify by telephone the individual identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial notice, Respondent shall submit in writing the date, time, and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondent shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.
23. Submission of documents. Any document required to be submitted to the Commissioner under this Consent Order shall, unless otherwise specified in writing by the Commissioner, be directed to:

Ms. Soumya Kallath  
Department of Energy and Environmental Protection  
Bureau of Air Management  
Air Enforcement Division  
79 Elm Street  
Hartford, Connecticut 06106-5127  
860-424-4152

Respondent consents to the issuance of this consent order without further notice. The undersigned certifies that he/she is fully authorized to enter into this consent order and to legally bind the Respondent to the terms and conditions of the consent order.

Allyndale Corporation

Signature: Louis Allyn

Type Name: Louis Allyn

Type Title: President

Date: 11/29/2019

Issued as a final order of the Commissioner of the Department of Energy and Environmental Protection.

Katie Dykes  
Katie Dykes, Commissioner  
Department of Energy and Environmental Protection

12/11/19  
Date

TOWN OF EAST CANAAN

LAND RECORDS

MAILED CERTIFIED MAIL,

RETURN RECEIPT REQUESTED

Certified Document No. 9414-8149 0158 5922 0762 72